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NECESSITY OF ENDING THE ECONOMIC, COMMERCIAL AND FINANCIAL EMBARGO IMPOSED BY THE UNITED STATES OF AMERICA AGAINST CUBA

Letter dated 17 October 1997 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith Decision No. 390 adopted by the Twenty-third Council of the Latin American Economic System, held from 6 to 9 October 1997 in Trinidad and Tobago, entitled the "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba".

I request that the text of this decision be circulated as a document of the General Assembly, under agenda item 30.

(Signed) Bruno RODRÍGUEZ PARRILLA
Ambassador
Permanent Representative

ANNEX

Decision No. 390

Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba

The Latin American Council,

In view of:

Subparagraphs (a) and (b) of article 3, article 4, and subparagraphs 1 (a) and 4 of article 5 of the Panama Convention;

Decision No. 112 on the "Imposition of economic measures of a coercive nature";

Decisions Nos. 356 and 360, which reject the application of unilateral measures which affect the free flow of international trade, and violate international law and the most elementary principles of regional coexistence;

Decision No. 377 on the "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba";

Resolutions 47/19 of 24 November 1992, 48/16 of 3 November 1993, 49/9 of 26 October 1994, 50/10 of 2 November 1995 and 51/17 of 12 November 1996 of the United Nations General Assembly, which call for an end to the economic, commercial and financial embargo of the United States of America against Cuba;

The document of the Permanent Secretariat of the Latin American Economic System (SELA) entitled "Monitoring the implementation of the so-called 'Helms-Burton Act'" (SP/CL/XXIII.0/Di No.1);

The statements made so far this year by the Association of Caribbean States (July 1997), the Summit of Heads of State of the Rio Group (August 1997) and the European Parliament (September 1997) rejecting any unilateral imposition that runs counter to the principles, rules and practices of free trade and internationally accepted investment.

Considering:

The need to reaffirm, among other principles, the sovereign equality of States, non-interference in their internal affairs and freedom of trade and navigation, which are enshrined in many international legal instruments;

That, despite rejection by the international community, further action continues to be taken to exacerbate the effects of the economic, commercial and financial embargo against Cuba, the extraterritorial nature of which affects the sovereignty of other States, as well as the interests of entities or persons under their jurisdiction.

DECIDES:

Article 1. To reaffirm its most emphatic rejection of the so-called "Helms-Burton Act", and of the new attempts to reinforce this legislation in the Congress of the United States of America, since the Act disregards the fundamental principle of respect for sovereignty, contravenes the standards governing coexistence between States, imposes unilateral sanctions of an extraterritorial nature and constitutes a flagrant violation of international law and of the principles and standards governing international trade;

Article 2. To reiterate its position in favour of the immediate lifting of the economic, commercial and financial embargo imposed by the United States of America against Cuba and to urge the Government of the United States of America to repeal the so-called "Helms-Burton Act";

Article 3. To continue to promote among States members of SELA the official exchange of information and experience on the drawing up and implementation of the so-called "antidote laws or mirror-image laws" in response to the so-called "Helms-Burton Act";

Article 4. To request the Permanent Secretariat of SELA to continue its consideration of this item, which is of particular significance for external relations in the region, and to keep the Latin American Council informed of its progress.

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Fifty-second session
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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Human rights situation in Kosovo

Report of the Secretary-General

I. INTRODUCTION

1. At its fifty-first session, on 12 December 1996, the General Assembly adopted resolution 51/111, entitled "Situation of human rights in Kosovo", by which the Assembly took note of the reports of the Special Rapporteur of the Commission on Human Rights on the situation in the territory of the former Yugoslavia,[1] which describe the continuing grave human rights situation in Kosovo, including police brutality, lack of fair trial procedures for political detainees, killings resulting from such violence, arbitrary searches and arrests, torture and ill-treatment of detainees, the deliberate maltreatment, persecution and imprisonment of political and human rights activists, the mass dismissals of civil servants and discrimination against pupils and teachers, acts that are mainly perpetrated against ethnic Albanians.

2. The General Assembly expressed appreciation for the efforts made by the international community to monitor the human rights situation in that area, but at the same time, based on the reports, expressed regret that the establishment of an adequate international monitoring presence had not yet been achieved; demanded, inter alia, that the authorities of Yugoslavia take all necessary measures to bring to an immediate end all human rights violations against ethnic Albanians in Kosovo, and release all political prisoners and cease the persecution of political leaders and members of local human rights organizations; and urged the authorities to allow the immediate and unconditional return of the mission of long duration of the Organization for Security and Cooperation in Europe (OSCE) to Kosovo, as called for in Security Council resolution 855 (1993) of 9 August 1993.

3. Furthermore, the Assembly requested the Secretary-General to continue his efforts to seek ways and means, including through consultations with the United Nations High Commissioner for Human Rights and other relevant organizations, to establish an adequate international monitoring presence in Kosovo and to report to it at its fifty-second session.

4. At its fifty-third session, the Commission on Human Rights adopted resolution 1997/57 of 15 April 1997, by which it reiterated the requests made by the General Assembly and, in section VII, called upon the Government of Yugoslavia, inter alia, to take immediate action, in view of the deteriorating situation in Kosovo and the danger of escalating violence there, to put an end to the continuing repression of and prevent violence against the ethnic Albanian population, including acts of harassment, beatings, torture, warrantless searches, arbitrary detention, unfair trials, unjustified evictions and dismissals; to release all political detainees, allow the return in safety and dignity of ethnic Albanian refugees to Kosovo and respect fully all human rights and fundamental freedoms, including freedom of the press, freedom of movement and freedom from discrimination in the field of education and information; and to allow the establishment of democratic institutions in Kosovo and the right to seek, receive and impart information and ideas through any media, and in particular to improve the situation of Albanian women and children, and to allow an international presence for monitoring of the human rights situation.

II. ACCESS BY UNITED NATIONS HUMAN RIGHTS MISSIONS

5. Initially, the Government of Yugoslavia declined repeated requests and recommendations from the United Nations High Commissioner for Human Rights and the Assistant Secretary-General for Human Rights for the establishment of a United Nations human rights field presence on its territory. On 23 February 1996, the Government notified the Special Rapporteur of the Commission on Human Rights, Mrs. Elisabeth Rehn, that it had approved the establishment of an office of the then Office of the High Commissioner/Centre for Human Rights at Belgrade. The Government stated that:

> "In an effort to promote cooperation with you and the Centre for Human Rights, the Federal Republic of Yugoslavia is pleased to respond positively and accept your request that an office be opened in Belgrade that would be staffed with the persons of your choice and would assist you in establishing the truth about the human rights situation in the Federal Republic of Yugoslavia."

6. On 15 March 1996, the then Office of the High Commissioner/Centre for Human Rights officially opened its office at Belgrade. Initially, the Government agreed to permit one international human rights professional to staff the office. At the request of the United Nations High Commissioner for Human Rights, the Government in September 1996 authorized the assignment to Belgrade of a second international human rights officer. The staff of the human rights office in Belgrade frequently visits Kosovo for the purpose of gathering information for the use of the Special Rapporteur. Recently one staff member attended two trials of Kosovo Albanians charged with offences against Yugoslavia. A periodic report of the Special Rapporteur to the Commission on

Human Rights[2] documents that procedures at the trials fell short of recognized international norms for fair trials, in conformity with the International Covenant on Civil and Political Rights and the Convention against Torture, which Yugoslavia is bound to uphold.

7. From her appointment in September 1995 to September 1997, in compliance with a request from the General Assembly and the Commission on Human Rights, the Special Rapporteur visited Yugoslavia nine times and travelled to the area of Kosovo on six occasions. She has been assisted in her missions by the staff of the Office of the High Commissioner in Belgrade.

8. The Special Rapporteur has also regularly visited other areas of Yugoslavia since her appointment, including the regions of Vojvodina and the Sandžak. She has met with the President of Serbia, the Minister for Foreign Affairs, the Federal Minister for Freedoms of the Citizen and National Minority Rights, the Minister of the Interior of Serbia and other senior officials, as well as representatives of non-governmental human rights organizations and other persons concerned with human rights issues. In her report to the Commission on Human Rights of 29 January 1997,[3] the Special Rapporteur stated that she continued to receive generally good cooperation from all Governments covered by her mandate Cooperation had also been good with international organizations and international and local non-governmental organizations active in the region of the former Yugoslavia as a whole. Neither the Special Rapporteur nor the staff of the Office of the High Commissioner has noted any significant problems during the last year moving throughout the country to gather human rights information. Despite repeated requests, however, the Government has refused to allow the High Commissioner to open an office in Prishtina. Thus, although the Office of the High Commissioner has unimpeded access to the region, its inability to establish a permanent presence in the area continues to hamper monitoring activities.

9. The Special Rapporteur remains concerned over the human rights situation in Kosovo. Since the previous report of the Secretary-General of 25 October 1996 (A/51/556), the Special Rapporteur has continued to receive reports of widespread human rights violations. These are described in the report of the Special Rapporteur that will be submitted to the General Assembly at its fifty-second session.

III. ACCESS BY THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

10. On 14 August 1992, by a decision of its Committee of Senior Officials, the then-Conference on Security and Cooperation in Europe (CSCE) established a mission of long duration, which had as its tasks (a) to promote dialogues between authorities concerned and representatives of the communities in three regions (Kosovo, the Sandžak and Vojvodina); (b) to collect information on all aspects relevant to violations of human rights and fundamental freedoms and promote solutions to such problems; (c) to establish contact points for solving problems that might be identified; and (d) to assist in providing information on relevant legislation on human rights, protection of minorities, free media and democratic elections.

11. The mission maintained its presence in Kosovo for 10 months. It carried out its mandate with the formal consent and support of the authorities of Yugoslavia, in accordance with a memorandum of understanding signed on 28 October 1992.

12. Following the elections in Yugoslavia in December 1992 and its exclusion from CSCE membership, the Government withdrew its formal consent for the mandate. The mission therefore departed in July 1993.

13. Despite repeated requests by CSCE/Organization for Security and Cooperation in Europe (OSCE) and the General Assembly to reinstate the monitoring mission, Yugoslavia has consistently denied OSCE access to the region for general monitoring purposes. It should be noted, however, that Yugoslavia did grant OSCE permission to send an electoral observer mission to monitor presidential and parliamentary elections in Serbia, which took place on 21 September 1997.

IV. CONCLUSIONS AND RECOMMENDATIONS

14. In view of the continuing widespread violations of human rights in Kosovo as reported by the Special Rapporteur, the opening of an office of the High Commissioner in Prishtina, as well as an increased presence of other international organizations, would be indispensable for gathering reliable information on future human rights developments.

Notes

[1] E/CN.4/1996/63, E/CN.4/1997/8 and E/CN.4/1997/9.

[2] E/CN.4/1997/9.

[3] E/CN.4/1997/56.

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Fifty-second session
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United Nations Relief and Works Agency for Palestine Refugees in the Near East

University of Jerusalem "Al-Quds" for Palestine refugees

Report of the Secretary-General

1. The present report is submitted in pursuance of General Assembly resolution 51/130 of 13 December 1996, the seventeenth resolution adopted since the first consideration of the subject at the thirty-fifth session (resolution 35/13 B).

2. The Secretary-General has submitted 15 reports (the last one being A/51/476) on the steps he has taken in pursuance of those resolutions, including his efforts to prepare the functional feasibility study on establishing the proposed university at Jerusalem that was first requested by the Assembly in its resolution 36/146 G. The position of the Government of Israel in regard to the establishment of the university is also set out in those reports.

3. As the Secretary-General has previously indicated (see A/41/457, para. 4), he believes that, in order to comply with the request addressed to him by the General Assembly, it will be necessary to complete the functional feasibility study initiated in pursuance of previous Assembly resolutions. To that end, after Assembly resolution 51/130 was adopted, the Secretary-General again sought the assistance of the Rector of the United Nations University, who, at his request, made available a highly qualified expert, Mihaly Simai, to assist in the preparation of the study. The expert was to visit the area and meet with the competent Israeli officials, bearing in mind that Israel exercises effective authority in the area concerned.

4. In a note verbale dated 5 September 1997 addressed to the Permanent Representative of Israel to the United Nations, the Secretary-General, with reference to the request addressed to him by the General Assembly, requested that the Government of Israel facilitate the visit of the expert, which would take place at a mutually convenient date. Recalling the position taken by the Government of Israel concerning the proposed university, as well as the clarifications already given by the Secretariat to the questions raised by the Israeli authorities (see A/36/593, annex), the Secretary-General expressed the opinion that such questions could be best discussed on the occasion of the visit of the United Nations expert.

5. On 10 October 1997, the Permanent Representative of Israel sent the following reply to the Secretary-General:

> "Israel has voted consistently against this resolution entitled 'University of Jerusalem "Al-Quds" for Palestine refugees', and its position remains unchanged. It is clear that the sponsors of this resolution seek to exploit the field of higher education for political purposes totally extraneous to genuine academic pursuits. Accordingly, the Government of Israel is of the opinion that the proposed visit of Dr. Mihaly Simai to Israel would serve no useful purpose."

6. In view of the position taken by the Government of Israel, it has not been possible to complete the functional feasibility study on the proposed university at Jerusalem as planned.

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SECURITY COUNCIL
Fifty-second year

REPORT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR GENOCIDE AND OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF RWANDA AND RWANDAN CITIZENS RESPONSIBLE FOR GENOCIDE AND OTHER SUCH VIOLATIONS COMMITTED IN THE TERRITORY OF NEIGHBOURING STATES BETWEEN 1 JANUARY AND 31 DECEMBER 1994

Identical letters dated 15 October 1997 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council

I am attaching, for your consideration and that of the members of the Security Council and the General Assembly, a letter dated 1 August 1997 from the President of the International Criminal Tribunal for Rwanda. In his letter, President Kama raises the problem faced by the Tribunal owing to the increase in the number of individuals detained at the Tribunal's Detention Facility in Arusha, in anticipation that all or most of them will be indicted by the Tribunal.

President Kama notes that, taking into account its current capacity and depending on the number of persons who will be indicted, the Tribunal might require considerable time to complete all the trials. Such a development would negatively affect the right of the accused to be tried without delay and certainly disappoint the expectations of the Rwandan people and the international community. With a view to addressing the above requirements, President Kama suggests that a third Trial Chamber of the Tribunal, staffed by three additional judges, be established.

It will be recalled that by its resolution 955 (1994) of 8 November 1994, which incorporates the statute of the Tribunal, the Security Council established two Trial Chambers composed of three judges each. The Council, in paragraph 7 of the resolution, expressly reserved the possibility of increasing the number of judges and Trial Chambers should this become necessary.

The establishment of a third Trial Chamber would require the amendment of articles 10 and 11 of the statute by the Security Council. Following such amendment, the General Assembly would be requested to approve the related increase in the budget of the Tribunal. Finally, the Security Council and the General Assembly would have to elect three additional judges in accordance with the statute of the Tribunal.

The Registry of the Tribunal estimated the costs of establishing the third Trial Chamber at $5,582,000 for the year 1998. More detailed estimates will be made available to the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee.

I would appreciate it if you would bring the present letter and its attachment to the attention of members of the Security Council and the General Assembly for their approval of the request for the establishment of an additional Trial Chamber for the Tribunal.

(Signed) Kofi A. ANNAN

ANNEX

Letter dated 1 August 1997 from the President of the International Criminal Tribunal for Rwanda addressed to the Secretary-General

I have the honour to bring to your attention the following problem facing the International Criminal Tribunal for Rwanda so that it may be considered for presentation to the Security Council.

Following the arrest of 8 people by the Kenyan authorities, at the request of the International Criminal Tribunal for Rwanda, and their transfer to the Detention Facility in Arusha, 20 detainees are currently incarcerated in the Facility. Given that 14 of these persons have already been indicted and that the 6 others may be indicted, we have had to envisage a revision of our judicial calendar in order to render expeditious justice, so as to meet the expectations of the Rwandan people and the international community, and furthermore, to ensure the respect of the fundamental right of the accused to be tried without undue delay.

A cursory assessment shows that if all of the incarcerated suspects were indicted, it would take us at least 88 months to conclude the trials of the persons detained in Arusha alone. This calculation is based on an average trial length not exceeding four months per person, although our experience has shown us that proceedings before international criminal courts require more time, as we have noted both in the three ongoing trials in Arusha and in the case of the International Tribunal for the former Yugoslavia, where the Tadic trial took more than one year.

It will obviously be difficult, if not impossible, for us to judge these people between now and the end of our mandate in May 1999 if we are to continue with only six judges, notwithstanding the fact that, by virtue of rule 15 of our rules of procedure and evidence, a judge is disqualified from hearing a case on the merits each time he or she has considered the indictment or indictments related thereto. Hence, in our view, there is an overwhelming necessity to increase the number of judges, in order to compose a third Trial Chamber, as provided in paragraph 7 of Security Council resolution 955 (1994). Indeed, the Council, in that resolution, decided to consider increasing the number of judges and Trial Chambers of the International Tribunal if it becomes necessary.

Since it is my belief that you share this point of view, I would be very grateful if you would kindly notify the Security Council of this matter as soon as possible.

Finally, allow me to take this opportunity to thank you on behalf of my colleagues and on my own behalf for all the initiatives you have personally taken in the interest of the Tribunal, since your arrival at the head of the Secretariat, and to reiterate our firm determination to do everything so that justice may be done.

(Signed) Laity KAMA
President